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19 48. **File No.** O Foreigners 148

Legal DEPARTMENT

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Subject:— P3E

Opinions under the Foreigners Act, 1946

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C O N T E N T S

Legal Department File No. C. Foreignors /48

1948

Sr. No.	Compilation	Subject	Pages.
	C. Foreignors 1948	Opinions under Re: Foreigners Act, 1946	
1.	C.M. 660 Confl 2-12-1948	Influx from Pakistan in to India stoffing of ------ an Iranian national entered India without Passport	1-3

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Entry of foreigners
Indian Passport Act 1920
Sections 3(1) & 3(2)

Foreigners Order 1948,
and
Influx from Pakistan (Control) Ordinance, 1948

Mr. Rayab Mirza Majim, an Iranian national, who entered India from Pakistan without a pass - port, was prosecuted for the breach of the Indan Passport Rules, 1921, and was convicted and sentenced to 1 day's simple imprisonment and to pay a fine of Rs.10/- or in default to undergo 10 days rigorous imprisonment. The Hon'ble Premier considers that on these terms hundreds will come into India and has asked the Remembrancer of Legal Affairs to advise what can be done to stop this.

2. The maximum punishment that can be provided for any contravention of the Passport Rules made under section 3(1) or 3(2) of the Indian Passport Act, 1920, is three months or fine or both Section 5 provides for the removal by general or special order of Government any person from British India who, in contravention of any rule made under section 3 prohibiting entry into British India without a passport, has entered therein. Consequently it would have been possible for Government to order the removal of Mr.Rayab Mirza Majim from British India on the ground of his entry without a passport.

3. Government of India has recently passed an Ordinance called "the Influx from Pakistan (Control) Ordinance, 1948", whereunder admission into India of persons from Pakistan is controlled. Section 3 provides:

> " No person shall enter India from any place in Pakistan, whether directly or indirectly, unless---
> (a) he is in possession of a permit, or
> (b) being a person not domiciled in India or Pakistan, he is in possession of a valid passport as required by the Indian Passport Act, 1920, or
> (c) he is exempted from the requirement of being in possession of a permit by or in accordance with the rules made under this Ordinance."

Section 5(1) which prescribes punishment,

provides:

> "Whoever enters India in contravention of the provisions of section 3, or having entered India contravenes the provisions of any rule made under section 4, or commits a breach of any of the conditions of his permit, shall be punishable with year, or with fine which may extend to one thousand rupees, or with both."

Under section 6 a person entering India from Pakistan in contravention of section 3 can be arrested without warrant and under section 7 he can also be removed from India by general or special order of the Central Governm nt.

4. Under the Foreigners Order, 1948, made under section 3 of the Foreigners Act, 1946, the entry of foreigners into the Indian Dominion is controlled. Clause 3 of the Order Provides:

> "No foreigner shall enter India otherwise than at a port or such places of entry on the borders of India as a Registration Officer having jurisdiction at such port or place may appoint in this behalf, or without the leave of the civil authority having jurisdiction at such port or place."

The departure of foreigners is also controlled under clause 5. The penalty prescribed by section 14 of the Foreigners Act for the contravention of the provisions of the Act or of any order made thereunder is imprisonment for a term which may extend to five years.

5. It is clear from the aforesaid provisions that there are now sufficiently strigent provisions regulating the entry into India of persons from Pakistan or any foreign country and it does not appear that any more power is needed to s top the influx from Pakistan into India.

Sd/- P.M.Lad
2/12
O.C. Remembrancer of Legal Affairs.

U.R. to H.D. (Spl.) No. 660-Confl dated the 2nd Dec. 1948

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